

Spending

Legislator's Guide to the Issues 2017-18



Transportation



The Issue

Years of rapid economic growth and a population growing at about double the national rate present Texas with infrastructure challenges. Working to mitigate these strains, Americans have been driving fewer miles per capita since 2006, as the Internet brings shopping, entertainment, and personal communications into homes.

The chart below shows that lawmakers boosted funding for the Texas Department of Transportation (TxDOT) over two sessions in 2013 and 2015. Proposition 1 resulted in \$1.7 billion being allocated for transportation in 2015. However, due to lower oil and gas prices, Proposition 1 transfers are likely to be more modest than forecast. Proposition 7 amended the Texas Constitution to allocate revenue to the State Highway Fund from state sales taxes starting in 2018 and a portion of motor vehicle sales taxes in 2020. Further, some \$1.3 billion in diversions out of the Fund 6 account for non-transportation purposes was ended in the 2016-17 budget.

House Bill 20 in 2015 contained several reforms of note. The most notable was requiring the Texas Transportation Commission (TTC) to implement performance-based planning to: generate metrics for the executive and legislative branches to measure performance; and prioritize projects using objective criteria. But the TTC was given wide latitude to ignore its project ranking criteria by allowing for discretionary funding decisions up to 10% of TxDOT's biennial budget. Since new project starts make up less than half of the overall TxDOT budget, granting 10% discretionary authority allows the TTC to ignore much of its own ranking process by allocating about 25% of spending on new projects that did not make the prioritized project list.

Transportation Budget Summary

	2014-2015	2016-2017	2018-2019
Proposition 1	\$1.7 billion	\$2.0 billion (est.)	\$2.0 billion (est.)
Proposition 7	N/A	N/A	\$2.3 billion (est.)
Ending Diversions	N/A	\$1.3 billion	Continued
Total TxDOT Funding	\$19.5 billion (exp.)	\$23.1 billion (est.)	\$24.0 billion (est.)

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Design-Build Contracting

Design-build differs from traditional design-bid-build contracting in that, in the former, a contractor is responsible for designing and building the project while in the latter, a different party, usually the government, designs the project and then bids it out to a contractor to build. Design-bid-build typically results in a longer, more expensive process. In the six-year period ending in 2014, TxDOT awarded five design-build contracts totaling \$3.85 billion. This method of procurement is estimated to have saved Texas taxpayers some \$1.08 billion, or 22% of the total spent.

Further, according to a federal study, the national average time savings for project completion in a design-build contract versus a design-bid-build contract is approximately 14%. For example, the DFW Connector Project used design-build, shaving 28 months off the expected timeline versus the traditional bidding process. This saved \$43 million in construction inflation while allowing 180,000 cars to use the DFW Connector earlier than they otherwise would have, saving about \$60 million in commuter costs.

House Bill 20 raised the threshold of value for design-build contracts from \$50 million to \$150 million. Further, a design-build contract may not extend a maintenance agreement as part of the award for a term of longer than five years. This has the unintended consequence of discouraging designs and construction techniques that may cost more on the front-end and considerably less in maintenance costs on the back end—roads and bridges typically cost more to maintain over their lifetimes than to build in the first place.

The Facts

- Texas restricts money and time saving design-build contracts to no more than three per year and no less than \$150 million. Other large states do not have parallel restrictions.
- Per capita miles driven has been flat since 2006 and, when combined with increasing fuel efficiency, alternative-fueled vehicles, and inflation, this means the fuel tax becomes less capable of funding transportation, placing a greater reliance on other revenue sources.

Recommendations

- Remove limitations on design-build contracting by striking the yearly limit of three, eliminating the minimum size of \$150 million, and striking the requirement for designs to be 30% complete before going out to bid.
- Remove the disincentives to propose long-lasting designs and construction techniques by allowing contractors to assume responsibility for maintenance beyond the current five-year limitation as part of the initial contract award.
- Additional spending on transportation, if any, should be included within Texas' tax and expenditure limitation and not be in the form of dedicated funds that do not count toward the spending limit.

Resources

[*Texas Highway Funding Legislative Primer*](#), Legislative Budget Board (April 2016).

[*Texas Department of Transportation Annual Financial Report, FY 2015*](#), Texas Department of Transportation (Dec. 2015).

[*The Road Forward: Improving Efficiency in Texas Transportation Spending*](#) by Chuck DeVore, Texas Public Policy Foundation (March 2015).

[*Texas Department of Transportation Annual Financial Report, FY 2014*](#), Texas Department of Transportation (Dec. 2014).

